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**MADHYA PRADESH ELECTRICITY REGULATORY COMMISSION  
BHOPAL**

**Subject: Petition for approval of draft supplementary PPA under Section 86 (1) (b) of the Electricity Act, 2003 read with Regulation 8.8 of the Madhya Pradesh Electricity Grid Code, 2019 and the Detailed Operating Procedure issued thereunder read with Regulation 32 of MPERC (Power Purchase and Procurement Process) Regulations, 2006, Revision 1, (RG-19(I) of 2006).**

**ORDER**

**(Date of Order: 7<sup>th</sup> November, 2023)**

**M.P. Power Management Company Ltd.,**  
Block No. 2, Shakti Bhawan, Rampur,  
Jabalpur – 482008

- **Petitioner**

**V/s**

**1. M/s. BLA Power Private Limited**

**2. M.P. Poorv Kshetra Vidyut Vitaran Co. Ltd.**

**3. M.P. Madhya Kshetra Vidyut Vitaran Co. Ltd.**

- **Respondents**

**4. M.P. Paschim Kshetra Vidyut Vitaran Ltd.**

Shri Alok Shankar, Advocate and Shri Nitin Khatri appeared on behalf of petitioner.

Ms. Shikha Ohri, Advocate and Shri Manoj Sahu appeared on behalf of Respondent no. 1.

M.P Power Management Company Ltd. (hereinafter referred as the 'Petitioner' or 'MPPMCL') has filed the subject petition seeking approval of draft Supplementary Power Purchase Agreement to the PPA dated 05.01.2011 executed between the petitioner (MPPMCL) and M/s BLA Power Private Limited (hereinafter referred as the Respondent No. 1 or BLA Power) for procurement of 30% power generated from 2x45 MW thermal power station at Gadarwara, Distt. Narsinghpur, Madhya Pradesh. The subject petition has filed under Section 86 (1)(b) of the Electricity Act, 2003 read with Regulation 8.8 of the Madhya Pradesh Electricity Grid Code, 2019 (MPEGC, 2019) and Detailed Operating Procedure (DOP) approved by the Commission on 29.01.2023.

2. The aforesaid approval of draft supplementary PPA has been sought after incorporating the provisions of Madhya Pradesh Electricity Grid Code, 2019 (MPEGC, 2019) and

Detailed Operating Procedure (DOP) issued on 29.01.2020 regarding Technical Minimum Scheduling and part load compensation for thermal generating units.

3. The petitioner (MP Power Management Company Ltd.) is a holding company for all the three Discoms (Respondent No. 2 to 4) of Madhya Pradesh and authorized for bulk power purchase and supply of electricity to the distribution companies in MP. Respondent No. 2, 3 and 4 are DISCOMS.
4. The Respondent No. 1 (M/s BLA Power Pvt. Ltd.) is a generating company and it has set up and operate 2x45 MW Coal Based Thermal Power Station at Gadarwara, Distt. Narsinghpur, Madhya Pradesh. Date of Commercial Operation of Unit No. 1 and 2 was 03.04.2012 and 20.03.2017, respectively.
5. The petitioner MPPMCL executed long term Power Purchase Agreement (PPA) on 05.01.2011 with Respondent No. 1 (M/s BLA Power Pvt. Ltd.) for purchase of 30% power of the installed capacity of the project at regulated tariff determined by the Commission for a period of 20 years. Respondent No. 1 executed another PPA with the Government of Madhya Pradesh (GoMP) for supply of 5% of net power generated at variable charges only determined by the Commission.
6. The Commission while exercising its powers under section 86 (1)(h) of the Act, notified Madhya Pradesh Electricity Grid Code, 2019 (MPEGC, 2019) on 21.06.2019, wherein certain provisions regarding Technical Minimum Scheduling and compensation were envisaged. Regarding part load compensation, clause 8.8 (4) of the MPEGC, 2019 provides that in case of generating stations other than SSGS, wherein the 100% installed capacity is not tied up with MPPMCL/ Discoms of MP through a long term PPA or whose tariff for only partial/contracted capacity is determined by the Commission, such generating station/ company may have to appropriately factor in the provisions in the PPAs entered into by it with MPPMCL/ Discoms for sale of power, in order to claim compensation for operating the unit at the Technical Minimum Schedule.
7. Further, vide order dated 29.01.2020, the Commission approved Detailed Operating Procedure (DOP) in terms of Clause 8.8 (6) of the MPEGC, 2019 for taking unit(s) under Reserve Shut Down (RSD) and mechanism for compensation for degradation of

operating parameters due to part load operation. The DOP also provides that in case of Generating Station, wherein 100% installed capacity is not tied up with MPPMCL through a long term PPA and whose tariff for only partial/contracted capacity is determined/adopted by this Commission, such Generating Station shall have to appropriately factor in such provisions regarding part load compensation in the PPAs, in order to claim such compensation.

8. In compliance to aforesaid provisions under MPEGC, 2019 and DOP dated 29.01.2020, MPPMCL has filed this petition for approval of draft Supplementary Power Purchase Agreement to PPA dated 05.01.2011. Petitioner in the subject petition has broadly submitted the following:
- i. BLA Power and the erstwhile Madhya Pradesh Power Trading Company Limited entered into the PPA for procurement of power 30% of the station's installed capacity (2x45 MW) for a period of 20 years and an additional 5% of the net power on annualized basis at variable cost.*
  - ii. Thereafter on 12.06.2019, the Commission while exercising its powers under section 86 (l)(h) of the Act, notified MPEGC 2019, wherein certain provisions regarding Technical Minimum Scheduling and compensation thereof were envisaged.*
  - iii. The Commission vide its Order dated 29.01.2020 approved DOP and compensation mechanism in terms of Clause 8.8(6) of the MPEGC, 2019. Said provision for taking unit(s) under Reserved Shut Down and Mechanism for Compensation for Degradation of Heat Rate, Aux. Compensation and Secondary Fuel Consumption, due to part load operation and Multiple Start/Stop of generating units.*
  - iv. Pursuant to the MPEGC, 2019 and the DOP issued thereunder, the Petitioner herein and BLA Power have initialled the Supplementary Power Purchase Agreement (SPPA) and the draft shall be executed after approval of the Commission.*
  - v. It is submitted that the initialling of the draft PPA and submitting the same for approval is without prejudice to the rights of the Petitioner to challenge the provisions of the MPEGC, 2019 relating to RSD and Detailed Procedure and the Petitioner reserves all rights qua the same.*
  - vi. The Respondent generating station must undertake to refund compensation*

*received in terms of the applicable provisions of the MPEGC, 2019 in the event the provisions are set aside by appropriate forum upon challenge by the Petitioner.*

9. With respect to the above submissions the petitioner prayed the following in the subject petition:
- i. Accord approval to the draft Supplementary Power Purchase Agreement;*
  - ii. Pass any such further order as the Commission may deem necessary in the interest of justice.*
10. The subject petition was admitted at the motion hearing held on 20.09.2023. The petitioner (MPPMCL) was directed to serve copy of petition to respondents within a week. The respondents were also directed to file their responses on the petition within a week, thereafter. The petitioner was asked to file rejoinder if any, within a week, thereafter.
11. At the next hearing held on 18.10.2023, petitioner and respondent No. 1 were heard and the case was reserved for order.
12. Respondent No. 1 (BLA Power Pvt. Ltd.) vide affidavit dated 11.10.2023 broadly submitted the following in their reply:
- At the outset, it is submitted that the answering Respondent supports the Draft Supplementary PPA filed with the present Petition and prays the Commission to allow the same.***
  - It is pertinent to mention herein that the order dated 29.01.2020, whereby the Commission had approved the Detailed Operating Procedure for taking unit(s) under Reserve Shut Down and Mechanism for Compensation for Degradation of Heat Rate, Aux Energy Consumption and Secondary Fuel Oil Consumption, due to Part Load Operation and Multiple Start/Stop of Units under Reserved Shut Down (RSD), was subsequently amended by the Commission by an order dated 12.10.2022.*
  - However, a similarly placed generating company within Madhya Pradesh, namely; M/s Jaiprakash Power Ventures Ltd., has filed an appeal being DFR No. 441/2023, before the Hon'ble Appellate Tribunal for Electricity against the aforesaid order dated 12.10.2022, challenging the prospective application of the order. In this regard, it is most respectfully submitted that the instant Draft Supplementary PPA and*

*supporting the execution of the Draft Supplementary PPA filed with the subject Petition, is without prejudice to the right and remedies available to the Answering Respondent in law and the Answering Respondent reserves all rights qua the same. The Answering Respondent further clarifies that compensation for RSD referred to in the clause above is separate and distinct from Capacity (Fixed) Charge as determined by this Ld. Commission for this Respondent and does not in any manner whatsoever include or relate to payment of Capacity (Fixed) Charges under the applicable Generation Tariff Regulations and the 30% PPA.*

- iv. As already submitted above, the Answering Respondent is supporting the Draft Supplementary PPA without prejudice to the right and remedies available to the Answering Respondent under law. Further, on perusal of Para 9(g), it is evident that as on date there is no challenge pending against the provisions of the MPEGC, 2019 by the Petitioner. Therefore, in view of the aforesaid facts and circumstances, the direction sought by the Petitioner in para 9(h) for the Answering Respondent to provide an undertaking, in the likely event of a challenge by Petitioner, is hypothetical and is not acceptable.*
- v. The answering Respondent supports the prayer sought by the petitioner and prays that the Commission may graciously be pleased to accord approval to the draft Supplementary PPA.*

**Commission's Observations**

- 13. The subject petition has been filed by the petitioner MP Power Management Company Limited for approval of draft Supplementary Power Purchase Agreement (SPPA) to be entered into between the petitioner and respondents seeking to factor in the provisions of Madhya Pradesh Electricity Grid Code (Revision-II), 2019, which were notified by the Commission on 12.06.2019 and the Detailed Operating Procedure approved by the Commission on 29.01.2020.
- 14. Ongoing through the draft Supplementary Agreement, the Commission has observed that the it has covered the following provisions:
  - i. Reference of MPERC (Madhya Pradesh Electricity Grid Code), 2019 and Detailed Operating Procedure issued by the Commission on 29.01.2020 and Amendment

Order dated 12.10.2022 are proposed in Recitals of draft Supplementary Agreement.

- ii. Addition of Article 6.1(A) is proposed for compensation for operation above Technical Minimum but below Normative Plant Availability Factor on account of lesser schedules given by procurer/Beneficiaries.
  - iii. Addition of Articles 6.1(B), 6.1(C) and 6.1(D) to the PPA is proposed in relation to the Technical Minimum Schedule.
  - iv. Draft Supplementary Power Purchase Agreement has been initialized by the petitioner and respondent No. 1.
15. Based on the contents in subject petition and submission of respondent No. 1 on record, the Commission has observed the following:
- a. The subject petition has been filed for appropriate amendment to the Power Purchase Agreement executed between the Petitioner and Respondent No. 1 on 5<sup>th</sup> January' 2011. The amendment through supplementary agreement is being sought pursuant to Madhya Pradesh Electricity Grid Code, 2019 wherein the provisions related to Technical Minimum Schedule for operation of State Sector Generating Stations and IPPs have been provided. The amendment proposed through the supplementary agreement in PPA dated 05.01.2011 is in line with MPERC order dated 29.01.2020 approving Detailed Operating Procedure for taking unit(s) under Reserve Shut Down and mechanism for compensation in relation to Technical Minimum Schedule.
  - b. With regard to technical minimum schedule and part load compensation in respect of thermal generating stations other than State Sector Generating Stations (SSGS) whose 100% installed capacity is not tied up with MPPMCL/Discoms, Regulation 8.8(4) of the MPEGC, 2019 provides as under:  
*"In case of generating stations other than SSGS, wherein the 100% installed capacity is not tied up with MPPMCL/ Discoms of MP through a long term power purchase agreement or whose tariff for only partial/contracted capacity is determined by the Commission, such generating station/ company may have to*

*appropriately factor in the above provisions in the PPAs entered into by it with M.P. Power Management Company/ Discoms for sale of power, in order to claim compensations for operating at the technical minimum schedule.”*

- c. In terms of Clause 8.8(6) of the MPEGC, 2019, the Commission vide order dated 29.01.2020 approved the DOP for taking unit(s) under Reserve Shut Down and Mechanism for Compensation for Degradation of Heat Rate, Aux Energy Consumption and Secondary Fuel Oil Consumption, due to Part Load Operation and Multiple Start/Stop of Units under Reserved Shut Down (RSD). Regarding applicability for the aforesaid compensation, clause 2 of the Appendix II of DOP mentioned as under:

*“This Compensation Mechanism is applicable to Coal based State Generating Stations, having 100% installed capacity tied up with MP Power Management Co. Ltd. whose tariff is determined or adopted by the MPERC. In case of generating stations other than SSGS, wherein 100% installed capacity is not tied up with MPPMCL through a long term power purchase agreement or whose tariff for only partial/contracted capacity is determined/adopted by the Commission, such generating station/ company shall have to appropriately factor in the provisions in the PPAs entered into by it with MPPMCL for sale of power, in order to claim compensations for part load operation and multiple start/stop under RSD.”*

- d. Article 16.2.1 of the Power Purchase Agreement dated 5<sup>th</sup> January, 2011 executed between the same parties provides as under:

*“This agreement may only be amended or supplemented by a written agreement between the parties and after duly obtaining the approval of the appropriate Commission, where necessary.”*

16. In view of the above, it is observed that in order to claim compensation towards Degradation of operating parameters (Heat Rate, Aux Energy Consumption and Secondary Fuel Oil Consumption) due to Part Load Operation and Multiple Start/Stop of Units, the generators whose 100% installed capacity is not tied up with MPPMCL through

a long term power purchase agreement or whose tariff for only partial/contracted capacity is determined/adopted by the Commission, have to incorporate such provisions in the PPAs through amendment and same have to be approved by the Commission.

17. The respondent no. 1 (BLA Power Pvt. Ltd.) by affidavit dated 11<sup>th</sup> October, 2023 has submitted its concurrence with the draft Supplementary Power Purchase Agreement to be executed between petitioner and respondent No. 1. The Commission has considered draft Supplementary Agreement filed with the subject petition, which has been concurred by the petitioner and respondent No. 1 through a written agreement in terms of Article 16.2.1 of the PPA dated 05.01.2011.
18. In view of the observations made in the foregoing paragraphs and considering the submissions of petitioner and Respondent No. 1 and also the written agreement/consent of the Respondent No. 1 in terms of Article 16.2.1 of PPA dated 05.01.2011, the Commission hereby accords approval to the draft Supplementary Agreement to PPA dated 05.01.2011, filed by the petitioner with the subject petition in respect of M/s BLA Power Pvt. Ltd., thermal power station at Gadarwara, Distt. Narsingpur Madhya Pradesh. A copy of the aforesaid draft of approved Supplementary Agreement is annexed as Annexure I with this Order. The aforesaid Supplementary Agreement shall come into effect from the date, it is executed by all the parties in PPA dated 05.01.2011. The parties are also directed to file a copy of the aforesaid approved Supplementary Agreement with the Commission on execution of the same by all the parties in the PPA.

With all aforesaid observations and directions, the subject petition is disposed of.

**(Prashant Chaturvedi)**  
Member

**(Gopal Srivastava)**  
Member (Law)

**(S. P. S. Parihar)**  
Chairman